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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-22648-2021
Date of decision :12.08.2021

Aman

... Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Vinay Kumar Pandey, Advocate for the petitioner.

Mr. Praveen Bhadu, Addl. Advocate General, Haryana.

(Through Video Conferencing)

VIKAS BAHL, J. (ORAL)

This is a first petition filed by the petitioner under Section 438 Cr.P.C read with Section 482 Cr.P.C. praying for grant of anticipatory bail to the petitioner in case FIR No.249 dated 30.04.2021 (Annexure P-1) registered under Section 3(1) (r) (s) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 registered at Police Station Shahabad District Kurukshetra.

A Coordinate Bench of this Court on 16.06.2021 issued notice of motion and had passed the following order:-

“Present: Mr. Vinay Kumar Pandey, Advocate

for the petitioner.

Learned counsel for the petitioner has contended that the allegations, which have been made in the FIR, are all concocted, however, he accepts that going by the FIR itself, the occurrences, if any, were not in public and, therefore, the offence under Section 3

(1) (r) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, would not be made out. Once such an offence is not made out, petitioner would be entitled to the concession of bail, as has been prayed for. He asserts that no recovery has to be effected from the petitioner and the petitioner is ready and willing to join investigation and cooperate with the same.

Notice of motion.

On the asking of the Court, Mr. Sandeep Singh Mann, Additional Advocate General, Haryana, accepts notice on behalf of the State.

Let the petitioner join the investigation on 23.06.2021 at 10:00 AM and on his doing so, he be released on interim bail subject to furnishing personal bonds and surety to the satisfaction of Arresting/Investigating Officer. However, the petitioner shall continue to join the investigation as and when called upon to do so and shall abide by the conditions as provided under Section 438 (2) Cr.P.C.

List on 12.08.2021.”

Learned counsel for the petitioner has stated that in pursuance of the said order the petitioner has already joined investigation and is fully cooperating with the investigating team.

Learned counsel for the petitioner has further relied upon a judgment of the Delhi High Court in a Writ Petition (Criminal) No.3083/2016 titled as **“Ms. Gayatri @ Apurna Singh Vs. State and Another”** in which case

while interpreting the meaning of word “Public View”, the Delhi High Court held as under:-

“8. Section 3(1)(x) of the SC/[ST Act](#) at the relevant time, i.e. in July 2015 read as follows:

"3.(1) Whoever, not being a member of a Scheduled Caste or a Scheduled Tribe,-

(x) intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within public view;

shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to five years and with fine." (emphasis supplied)”

42. In Daya Bhatnagar (supra), the majority view taken by the Court was that to attract the offence under Section 3(1)(x) of the SC/[ST Act](#) the place where the offending action takes place should be within public view that does not mean that the place should be a public place. It could well be a private place, provided the utterance was made within public view. "Public view" is understood to mean a place where public persons are present -howsoever small in number they may be. Public persons are independent and impartial persons who are not interested in any of the parties. The same has been explained to mean persons not having any kind of close relationship or association with the complainant. Such persons are as good as strangers who do not have any liking for the complainant through any close

relationship or any business commercial or other vested interest and who are not participating members with him in any way.”

Learned counsel for the petitioner stated that since a perusal of the FIR would show that the persons in whose presence the alleged incident took place were the father and brother of the complainant they cannot be considered to be independent person so as to constitute 'public'. It is further submitted that since the necessary ingredients of Section 3(1)(r) and 31(1)(s) are not made out and thus, the bar under Section 18 would not be applicable.

Learned State counsel, on instructions from DSP Atma Ram has stated that the petitioner has joined the investigation on 23.06.2021 and is not required for custodial interrogation.

After having considered the above submissions, this Court is of the view that the interim bail granted on 16.06.2021 deserves to be confirmed.

In view of the above, the present petition is allowed and it is ordered that the petitioner in the event of the arrest shall be released on bail subject to his furnishing personal bonds and surety to the satisfaction of Arresting/Investigating Officer. However, the petitioner shall join the investigation as and when called upon to do so and shall abide by the conditions as provided under Section 438(2) Cr.P.C.

However, nothing stated above shall be construed as an expression of opinion on the merits of the case.

(VIKAS BAHL)
JUDGE

12.08.2021
Jitesh (JTS)

Whether speaking/reasoned:- Yes/No
Whether reportable:- Yes/No